

## **§ 10.336**

## **20 CFR Ch. I (4–1–08 Edition)**

### **§ 10.336 What are the time frames for submitting bills?**

To be considered for payment, bills must be submitted by the end of the calendar year after the year when the expense was incurred, or by the end of the calendar year after the year when OWCP first accepted the claim as compensable, whichever is later.

### **§ 10.337 If OWCP reimburses an employee only partially for a medical expense, must the provider refund the balance of the amount paid to the employee?**

(a) The OWCP fee schedule sets maximum limits on the amounts payable for many services (see § 10.805). The employee may be only partially reimbursed for medical expenses because the amount he or she paid to the medical provider for a service exceeds the maximum allowable charge set by the OWCP fee schedule.

(b) If this happens, OWCP shall advise the employee of the maximum allowable charge for the service in question and of his or her responsibility to ask the provider to refund to the employee, or credit to the employee's account, the amount he or she paid which exceeds the maximum allowable charge. The provider may request reconsideration of the fee determination as set forth in § 10.812.

(c) If the provider does not refund to the employee or credit to his or her account the amount of money paid in excess of the charge which OWCP allows, the employee should submit documentation of the attempt to obtain such refund or credit to OWCP. OWCP may make reasonable reimbursement to the employee after reviewing the facts and circumstances of the case.

## **Subpart E—Compensation and Related Benefits**

### **COMPENSATION FOR DISABILITY AND IMPAIRMENT**

#### **§ 10.400 What is total disability?**

(a) Permanent total disability is presumed to result from the loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes. However, the presumption of permanent total disability as a result of

such loss may be rebutted by evidence to the contrary, such as evidence of continued ability to work and to earn wages despite the loss.

(b) Temporary total disability is defined as the inability to return to the position held at the time of injury or earn equivalent wages, or to perform other gainful employment, due to the work-related injury. Except as presumed under paragraph (a) of this section, an employee's disability status is always considered temporary pending return to work.

#### **§ 10.401 When and how is compensation for total disability paid?**

(a) Compensation is payable when the employee starts to lose pay if the injury causes permanent disability or if pay loss continues for more than 14 calendar days. Otherwise, compensation is payable on the fourth day after pay stops. Compensation may not be paid while an injured employee is in a continuation of pay status or receives pay for leave.

(b) Compensation for total disability is payable at the rate of 66⅔ percent of the pay rate if the employee has no dependents, or 75 percent of the pay rate if the employee has at least one dependent. ("Dependents" are defined at 5 U.S.C. 8110(a).)

#### **§ 10.402 What is partial disability?**

An injured employee who cannot return to the position held at the time of injury (or earn equivalent wages) due to the work-related injury, but who is not totally disabled for all gainful employment, is considered to be partially disabled.

#### **§ 10.403 When and how is compensation for partial disability paid?**

(a) 5 U.S.C. 8115 outlines how compensation for partial disability is determined. If the employee has actual earnings which fairly and reasonably represent his or her wage-earning capacity, those earnings may form the basis for payment of compensation for partial disability. (See §§ 10.500 through 10.520 concerning return to work.) If the employee's actual earnings do not fairly and reasonably represent his or her wage-earning capacity, or if the employee has no actual earnings,

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OWCP uses the factors stated in 5 U.S.C. 8115 to select a position which represents his or her wage-earning capacity. However, OWCP will not secure employment for the employee in the position selected for establishing a wage-earning capacity.

(b) Compensation for partial disability is payable as a percentage of the difference between the employee's pay rate for compensation purposes and the employee's wage-earning capacity. The percentage is 66⅔ percent of this difference if the employee has no dependents, or 75 percent of this difference if the employee has at least one dependent.

(c) The formula which OWCP uses to compute the compensation payable for partial disability employs the following terms: Pay rate for compensation purposes, which is defined in §10.5(s) of this part; current pay rate, which means the salary or wages for the job held at the time of injury at the time of the determination; and earnings, which means the employee's actual earnings, or the salary or pay rate of the position selected by OWCP as representing the employee's wage-earning capacity.

(d) The employee's wage-earning capacity in terms of percentage is computed by dividing the employee's earnings by the current pay rate. The comparison of earnings and "current" pay rate for the job held at the time of injury need not be made as of the beginning of partial disability. OWCP may use any convenient date for making the comparison as long as both wage rates are in effect on the date used for comparison.

(e) The employee's wage-earning capacity in terms of dollars is computed by first multiplying the pay rate for compensation purposes by the percentage of wage-earning capacity. The resulting dollar amount is then subtracted from the pay rate for compensation purposes to obtain the employee's loss of wage-earning capacity.

### § 10.404 When and how is compensation for a schedule impairment paid?

Compensation is provided for specified periods of time for the permanent loss or loss of use of certain members,

organs and functions of the body. Such loss or loss of use is known as permanent impairment. Compensation for proportionate periods of time is payable for partial loss or loss of use of each member, organ or function. OWCP evaluates the degree of impairment to schedule members, organs and functions as defined in 5 U.S.C. 8107 according to the standards set forth in the specified (by OWCP) edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*.

(a) 5 U.S.C. 8107(c) provides a list of schedule members. Pursuant to the authority provided by 5 U.S.C. 8107(c)(22), the Secretary has added the following organs to the compensation schedule for injuries that were sustained on or after September 7, 1974:

Member	Weeks
Breast (one) .....	52
Kidney (one) .....	156
Larynx .....	160
Lung (one) .....	156
Penis .....	205
Testicle (one) .....	52
Tongue .....	160
Ovary (one) .....	52
Uterus/cervix and vulva/vagina .....	205

(b) Compensation for schedule awards is payable at 66⅔ percent of the employee's pay, or 75 percent of the pay when the employee has at least one dependent.

(c) The period of compensation payable under 5 U.S.C. 8107(c) shall be reduced by the period of compensation paid or payable under the schedule for an earlier injury if:

(1) Compensation in both cases is for impairment of the same member or function or different parts of the same member or function, or for disfigurement; and

(2) OWCP finds that compensation payable for the later impairment in whole or in part would duplicate the compensation payable for the pre-existing impairment.

(d) Compensation not to exceed \$3,500 may be paid for serious disfigurement of the face, head or neck which is likely to handicap a person in securing or maintaining employment.